



AN ACT GENERALLY REVISING STATUTES GOVERNING VARIOUS STATE RETIREMENT SYSTEMS IN ORDER TO ENSURE THAT THOSE SYSTEMS CONSTITUTE QUALIFIED RETIREMENT PLANS UNDER THE INTERNAL REVENUE CODE; AMENDING SECTIONS 5-2-304, 19-2-303, 19-2-602, 19-2-902, 19-2-907, 19-2-1001, 19-2-1002, 19-2-1005, 19-3-315, 19-3-412, 19-3-1501, 19-3-2123, 19-3-2126, 19-5-701, 19-7-1001, 19-8-801, 19-9-301, 19-9-1206, 19-9-1208, 19-13-210, AND 19-13-301, MCA; AND PROVIDING AN EFFECTIVE DATE AND RETROACTIVE APPLICABILITY DATES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 5-2-304, MCA, is amended to read:

"5-2-304. Participation in public retirement systems. (1) The purpose of this section is to allow a person who is elected or appointed to the Montana legislature and who is also a member of a retirement system provided for in Title 19, chapter 3, 5, 6, 7, 8, 9, 13, 20, or 21, by virtue of the person's nonlegislative employment to continue the person's participation in the public retirement system of which the person is a member.

(2) This section is not intended to provide duplicate credit for the same service in two retirement systems supported wholly or in part by public funds. This section does not affect contribution rates or benefit payments specifically provided for in the laws governing the operation of individual retirement systems.

(3) (a) A person who is an inactive or retired member of a retirement system provided for in Title 19, chapter 5, 6, 7, 8, 9, 13, 20, or 21, and who is elected or appointed to be a legislator may:

(i) return to active membership in the system of which the person is an inactive or retired member under the requirements of that system; or

(ii) remain an inactive or retired member of the retirement system and become an active member of the public employees' retirement system pursuant to 19-3-412.

(b) A person who is an inactive or retired member of the public employees' retirement system provided for in Title 19, chapter 3, and who is elected or appointed to the legislature may return to active membership in the public employees' retirement system but cannot simultaneously be an inactive or retired member of the

system as a result of prior covered terminated employment and an active member of the retirement system under 19-3-412 or this section.

(4) (a) A person who is an active member of a public retirement system governed by state law and who is elected or appointed to be a legislator may, but is not required to, continue the person's participation in that public retirement system while engaged in official duties as a legislator.

(b) To continue participation as an active member in the public retirement system, a legislator shall, within ~~180~~ 90 days of taking office and in a manner prescribed by the appropriate board, file an irrevocable written election with the teachers' retirement board or the public employees' retirement board.

(5) A legislator who elects to continue participation as an active member as provided in subsection (4) shall continue the payments into the fund of the retirement system at the rate currently in effect in the system based on the legislator's monthly salary as a member of that system.

(6) The state contribution must be made by legislative appropriation. It must equal the appropriate employer contribution at the rate currently in effect in the system."

Section 2. Section 19-2-303, MCA, is amended to read:

"19-2-303. Definitions. Unless the context requires otherwise, for each of the retirement systems subject to this chapter, the following definitions apply:

(1) "Accumulated contributions" means the sum of all the regular and any additional contributions made by a member in a defined benefit plan, together with the regular interest on the contributions.

(2) "Active member" means a member who is a paid employee of an employer, is making the required contributions, and is properly reported to the board for the most current reporting period.

(3) "Actuarial cost" means the amount determined by the board in a uniform and nondiscriminatory manner to represent the present value of the benefits to be derived from the additional service to be credited based on the most recent actuarial valuation for the system and the age, years until retirement, and current salary of the member.

(4) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the mortality table and interest rate assumptions adopted by the board.

(5) "Actuarial liabilities" means the excess of the present value of all benefits payable under a defined benefit retirement plan over the present value of future normal costs in that retirement plan.

(6) "Actuary" means the actuary retained by the board in accordance with 19-2-405.

(7) "Additional contributions" means contributions made by a member of a defined benefit plan to purchase various types of optional service credit as allowed by the applicable retirement plan.

(8) "Annuity" means:

(a) in the case of a defined benefit plan, equal and fixed payments for life that are the actuarial equivalent of a lump-sum payment under a retirement plan and as such are not benefits paid by a retirement plan and are not subject to periodic or one-time increases; or

(b) in the case of the defined contribution plan, a payment of a fixed sum of money at regular intervals.

(9) "Benefit" means:

(a) the service retirement benefit, early retirement benefit, or disability retirement or survivorship benefit payment provided by a defined benefit retirement plan; or

(b) a payment or distribution under the defined contribution retirement plan, including a disability payment under 19-3-2141, for the exclusive benefit of a plan member or the member's beneficiary or an annuity purchased under 19-3-2124.

(10) "Board" means the public employees' retirement board provided for in 2-15-1009.

(11) "Contingent annuitant" means a person designated to receive a continuing monthly benefit after the death of a retired member.

(12) "Covered employment" means employment in a covered position.

(13) "Covered position" means a position in which the employee must be a member of the retirement system except as otherwise provided by law.

(14) "Defined benefit retirement plan" or "defined benefit plan" means a plan within the retirement systems provided for pursuant to 19-2-302 that is not the defined contribution retirement plan.

(15) "Defined contribution retirement plan" or "defined contribution plan" means the plan within the public employees' retirement system established in 19-3-103 that is provided for in chapter 3, part 21, of this title and that is not a defined benefit plan.

(16) "Department" means the department of administration.

(17) "Designated beneficiary" means the person designated by a member or payment recipient to receive any survivorship benefits, lump-sum payments, or benefit from a retirement account upon the death of the member or payment recipient, including annuities derived from the benefits or payments.

(18) "Direct rollover" means a payment by the plan to the eligible retirement plan specified by the distributee.

~~(18)~~(19) "Disability" or "disabled" means a total inability of the member to perform the member's duties by reason of physical or mental incapacity. The disability must be incurred while the member is an active member and must be one of permanent duration or of extended and uncertain duration, as determined by the board on the basis of competent medical opinion.

(20) "Distributee" means:

(a) a member;

(b) a member's surviving spouse;

(c) a member's spouse or former spouse who is the alternate payee under a family law order as defined in 19-2-907; or

(d) effective January 1, 2007, a member's nonspouse beneficiary who is a designated beneficiary as defined by section 401(a)(9)(E) of the Internal Revenue Code, 26 U.S.C. 401(a)(9)(E).

~~(19)~~(21) "Early retirement benefit" means the retirement benefit payable to a member following early retirement and is the actuarial equivalent of the accrued portion of the member's service retirement benefit.

(22) "Eligible retirement plan" means any of the following that accepts the distributee's eligible rollover distribution:

(a) an individual retirement account described in section 408(a) of the Internal Revenue Code, 26 U.S.C. 408(a);

(b) an individual retirement annuity described in section 408(b) of the Internal Revenue Code, 26 U.S.C. 408(b);

(c) an annuity plan described in section 403(a) of the Internal Revenue Code, 26 U.S.C. 403(a);

(d) a qualified trust described in section 401(a) of the Internal Revenue Code, 26 U.S.C. 401(a);

(e) effective January 1, 2002, an annuity contract described in section 403(b) of the Internal Revenue Code, 26 U.S.C. 403(b);

(f) effective January 1, 2002, a plan eligible under section 457(b) of the Internal Revenue Code, 26 U.S.C. 457(b), that is maintained by a state, a political subdivision of a state, or any agency or instrumentality of a state or a political subdivision of a state that agrees to separately account for amounts transferred into that plan from a plan under this title; or

(g) effective January 1, 2008, a Roth IRA described in section 408A of the Internal Revenue Code, 26 U.S.C. 408A.

(23) "Eligible rollover distribution":

(a) means any distribution of all or any portion of the balance from a retirement plan to the credit of the distributee, as provided in [section 9];

(b) effective January 1, 2002, includes a distribution to a surviving spouse or to a spouse or former spouse who is an alternate payee under a domestic relations order, as defined in section 414(p) of the Internal Revenue Code, 26 U.S.C. 414(p).

~~(20)~~(24) "Employee" means a person who is employed by an employer in any capacity and whose salary is being paid by the employer or a person for whom an interlocal governmental entity is responsible for paying retirement contributions pursuant to 7-11-105.

~~(21)~~(25) "Employer" means a governmental agency participating in a retirement system enumerated in 19-2-302 on behalf of its eligible employees. The term includes an interlocal governmental entity identified as responsible for paying retirement contributions pursuant to 7-11-105.

~~(22)~~(26) "Essential elements of the position" means fundamental job duties. An element may be considered essential because of but not limited to the following factors:

- (a) the position exists to perform the element;
- (b) there are a limited number of employees to perform the element; or
- (c) the element is highly specialized.

~~(23)~~(27) "Fiscal year" means a plan year, which is any year commencing with July 1 and ending the following June 30.

~~(24)~~(28) "Inactive member" means a member who terminates service and does not retire or take a refund of the member's accumulated contributions.

~~(25)~~(29) "Internal Revenue Code" has the meaning provided in 15-30-101.

~~(26)~~(30) "Member" means either:

- (a) a person with accumulated contributions and service credited with a defined benefit retirement plan or receiving a retirement benefit on account of the person's previous service credited in a retirement system; or
- (b) a person with a retirement account in the defined contribution plan.

~~(27)~~(31) "Membership service" means the periods of service that are used to determine eligibility for

retirement or other benefits.

~~(28)~~(32) (a) "Normal cost" or "future normal cost" means an amount calculated under an actuarial cost method required to fund accruing benefits for members of a defined benefit retirement plan during any year in the future.

(b) Normal cost does not include any portion of the supplemental costs of a retirement plan.

~~(29)~~(33) "Normal retirement age" means the age at which a member is eligible to immediately receive a retirement benefit based on the member's age, length of service, or both, as specified under the member's retirement system, without disability and without an actuarial or similar reduction in the benefit.

~~(30)~~(34) "Pension" means benefit payments for life derived from contributions to a retirement plan made from state- or employer-controlled funds.

~~(31)~~(35) "Pension trust fund" means a fund established to hold the contributions, income, and assets of a retirement system or plan in public trust.

~~(32)~~(36) "Plan choice rate" means the amount of the employer contribution as a percentage of payroll covered by the defined contribution plan members that is allocated to the public employees' retirement system's defined benefit plan pursuant to 19-3-2117 and that is adjusted by the board pursuant to 19-3-2121 to actuarially fund the unfunded liabilities and the normal cost rate changes in a defined benefit plan resulting from member selection of the defined contribution plan.

~~(33)~~(37) "Regular contributions" means contributions required from members under a retirement plan.

~~(34)~~(38) "Regular interest" means interest at rates set from time to time by the board.

~~(35)~~(39) "Retirement" or "retired" means the status of a member who has:

- (a) terminated from service; and
- (b) received and accepted a retirement benefit from a retirement plan.

~~(36)~~(40) "Retirement account" means an individual account within the defined contribution retirement plan for the deposit of employer and member contributions and other assets for the exclusive benefit of a member of the defined contribution plan or the member's beneficiary.

~~(37)~~(41) "Retirement benefit" means:

(a) in the case of a defined benefit plan, the periodic benefit payable as a result of service retirement, early retirement, or disability retirement under a defined benefit plan of a retirement system. With respect to a defined benefit plan, the term does not mean an annuity.

(b) in the case of the defined contribution plan, a benefit as defined in subsection (9)(b).

~~(38)~~(42) "Retirement plan" or "plan" means either a defined benefit plan or a defined contribution plan under one of the public employee retirement systems enumerated in 19-2-302.

~~(39)~~(43) "Retirement system" or "system" means one of the public employee retirement systems enumerated in 19-2-302.

~~(40)~~(44) "Service" means employment of an employee in a position covered by a retirement system.

~~(41)~~(45) "Service credit" means the periods of time for which the required contributions have been made to a retirement plan and that are used to calculate retirement benefits or survivorship benefits under a defined benefit retirement plan.

~~(42)~~(46) "Service retirement benefit" means the retirement benefit that the member may receive at normal retirement age.

~~(43)~~(47) "Statutory beneficiary" means the surviving spouse or dependent child or children of a member of the highway patrol officers', municipal police officers', or firefighters' unified retirement system who are statutorily designated to receive benefits upon the death of the member.

~~(44)~~(48) "Supplemental cost" means an element of the total actuarial cost of a defined benefit retirement plan arising from benefits payable for service performed prior to the inception of the retirement plan or prior to the date of contribution rate increases, changes in actuarial assumptions, actuarial losses, or failure to fund or otherwise recognize normal cost accruals or interest on supplemental costs. These costs are included in the unfunded actuarial liabilities of the retirement plan.

~~(45)~~(49) "Survivorship benefit" means payments for life to the statutory or designated beneficiary of a deceased member who died while in service under a defined benefit retirement plan.

~~(46)~~(50) "Termination of employment", "termination from employment", "terminated employment", "terminated from employment", "terminate employment", or "terminates employment" means that:

(a) there has been a complete severance of a covered employment relationship by the positive act of either the employee, the employer, or both; and

(b) the member is no longer receiving compensation for covered employment, other than any outstanding lump-sum payment for compensatory leave, sick leave, or annual leave.

~~(47)~~(51) "Termination of service", "termination from service", "terminated from service", "terminated service", "terminating service", or "terminates service" means that:

(a) there has been a complete severance of a covered employment relationship by the positive act of either the employee, the employer, or both for at least 30 days;

(b) the member is no longer receiving compensation for covered employment; and

(c) the member has been paid all compensation for compensatory leave, sick leave, or annual leave to which the member was entitled. For the purposes of this subsection ~~(47)~~ (51), compensation does not mean compensation as a result of a legal action, court order, or settlement to which the board was not a party.

~~(48)~~(52) "Unfunded actuarial liabilities" or "unfunded liabilities" means the excess of a defined benefit retirement plan's actuarial liabilities at any given point in time over the value of its cash and investments on that same date.

~~(49)~~(53) "Vested account" means an individual account within a defined contribution plan that is for the exclusive benefit of a member or the member's beneficiary. A vested account includes all contributions and the income on all contributions in each of the following accounts:

(a) the member's contribution account;

(b) the vested portion of the employer's contribution account; and

(c) the member's account for other contributions.

~~(50)~~(54) "Vested member" or "vested" means:

(a) with respect to a defined benefit plan, a member or the status of a member who has at least 5 years of membership service; or

(b) with respect to the defined contribution plan, a member or the status of a member who meets the minimum membership service requirement of 19-3-2116.

~~(51)~~(55) "Written application" or "written election" means a written instrument, prescribed by the board or required by law, properly signed and filed with the board, that contains all required information, including documentation that the board considers necessary."

Section 3. Section 19-2-602, MCA, is amended to read:

"19-2-602. Refund of member's contributions on termination of service. (1) Except as provided in this section, any member who has terminated service, other than by death or retirement, must be paid the member's accumulated contributions upon the filing of a written application by the member and board approval. Prior to termination of service, a member may not receive a refund of any portion of the member's accumulated

contributions.

(2) A nonvested member who has terminated service with accumulated contributions of less than \$200 must be paid the accumulated contributions in a lump sum as soon as administratively feasible without a written application being filed by the member.

(3) A nonvested member who has terminated service with accumulated contributions of \$200 to \$1,000 must be paid the accumulated contributions in a lump sum as soon as administratively feasible; unless a written application is filed pursuant to subsection (4).

(4) Upon the filing of a written application by an alternate payee eligible to receive a single distribution of \$200 or more under 19-2-907 or 19-2-909 or by a member who is terminating service and is eligible to receive a refund of \$200 or more of accumulated contributions, the board shall make a direct rollover distribution ~~as of~~ any eligible rollover distribution allowed under section 401(a)(31) of the Internal Revenue Code, 26 U.S.C. 401(a)(31) section 401(a)(31). The direct rollover distribution must be paid directly to an eligible retirement plan allowed under applicable federal law ~~or to~~. As of January 1, 2008, an eligible retirement plan includes a Roth IRA, provided for under 26 U.S.C. 408A. The applicant is responsible for designating an eligible retirement plan on forms provided by the board. The portion of the account that is not an eligible for direct rollover distribution must be paid directly to the recipient."

Section 4. Section 19-2-902, MCA, is amended to read:

"19-2-902. Payment of benefits. (1) A retirement benefit or survivorship benefit granted under a retirement system subject to this chapter, other than a benefit under the defined contribution plan, must be payable in monthly installments, except as provided in this part.

(2) ~~(a) If the total actuarial present value of a benefit payable to a member or beneficiary is equal to or less than \$5,000 elects, the board shall pay the present value of the benefit to the member or beneficiary in a single lump sum unless the member or beneficiary chooses to receive a monthly benefit.~~

~~(b) The lump sum must be paid at the time the initial monthly benefit would otherwise be payable.~~

~~(c) An election to receive a monthly benefit single lump sum must be made at least 30 days prior to the first payment date.~~

(3) If a benefit recipient dies before the last day of the month, a ~~smaller~~ pro rata amount otherwise payable to the payment recipient must be paid to the designated beneficiary, statutory beneficiary, or contingent

annuitant or to the benefit recipient's estate, as appropriate."

Section 5. Section 19-2-907, MCA, is amended to read:

"19-2-907. Alternate payees -- family law orders -- rulemaking. (1) A participant in a retirement system may have the participant's rights modified or recognized by a family law order.

(2) For purposes of this section:

(a) "family law order" means a judgment, decree, or order of a court of competent jurisdiction under Title 40 concerning child support, parental support, spousal maintenance, or marital property rights that includes a transfer of all or a portion of a participant's payment rights in a retirement system to an alternate payee in compliance with this section and with section 414(p) of the Internal Revenue Code, 26 U.S.C. 414(p); and

(b) "participant" means an identified person who is a member or an actual or potential beneficiary, survivor, or contingent annuitant of a retirement system or plan designated pursuant to Title 19, chapter 3, 5, 6, 7, 8, 9, 13, or 17.

(3) A family law order must identify a participant and an alternate payee by full name, current address, date of birth, and social security number. An alternate payee's rights and interests granted in compliance with this section are not subject to assignment, execution, garnishment, attachment, or other process. An alternate payee's rights or interests may be modified only by a family law order amending the family law order that established the right or interest.

(4) ~~A~~ Except as provided in subsection (6)(a), a family law order may not require:

(a) a type or form of benefit, option, or payment not available to the affected participant under the appropriate retirement system or plan; or

(b) an amount or duration of payment greater than that available to a participant under the appropriate retirement system or plan.

(5) With respect to a defined benefit plan, a family law order may provide for payment to an alternate payee only as follows:

(a) Retirement benefit payments or refunds may be apportioned by directing payment of either a percentage of the amount payable or a fixed amount of no more than the amount payable to the participant. Payments to an alternate payee may be limited to a specific amount each month if the number of payments is specified.

(b) The maximum amount of disability or survivorship benefits that may be paid to alternate payees is the monthly benefit amount that would have been payable on the date of termination of service if the member had retired without disability or death. The maximum amount paid may be zero, depending on the member's age and service credit at the time of disability or death. Conversion of a disability retirement to a service retirement pursuant to 19-2-406(4), 19-3-1015(2), 19-6-612(2), or 19-8-712(2) does not increase the maximum monthly amount that may be paid to an alternate payee.

(c) Retirement benefit adjustments for which a participant is eligible after retirement may be paid as a percentage only if existing benefit payments are paid as a percentage. The adjustments must be paid as a percentage in the same ratio as existing benefit payments.

(d) The participant may be required to choose a specified form of benefit payment or designate a beneficiary or contingent annuitant if the retirement system or plan allows for that option.

(6) With respect to a defined contribution plan, a family law order may provide for payment to an alternate payee only as follows:

(a) The vested account of the participant may be apportioned by directing payment of either a percentage or a fixed amount. The total amount paid may not exceed the amount in the participant's vested account. The alternate payee may receive the payment only as a direct payment, rollover, or transfer. ~~A new account may be established for an alternate payee, but money in the account~~ The alternate payee's portion must be totally disbursed to the alternate payee as soon as administratively feasible upon the ~~participant's termination of service or death~~ board's approval of the family law order.

(b) If the participant is receiving periodic payments or an annuity provided under the plan, those payments may be apportioned as a percentage of the amount payable to the participant. Payments to the alternate payee may be limited to a specific amount each month if the number of payments is specified. Payments may not total more than the amount payable to the payee.

(7) The duration of monthly payments paid from a defined benefit or defined contribution plan participant to an alternate payee may not exceed the lifetime of the appropriate participant. The duration of the monthly payments may be further limited only to a specified maximum time, the life of the alternate payee, or the life of another specified participant. The alternate payee's rights and interests survive the alternate payee's death and may be transferred by inheritance.

(8) The board may assess a participant or an alternate payee for all costs of reviewing and administering

a family law order, including reasonable attorney fees. The board may adopt rules to implement this section.

(9) Each family law order establishing a final obligation concerning payments by the retirement system must contain a statement that the order is subject to review and approval by the board.

(10) The board shall adopt rules to provide for the administration of family law orders."

Section 6. Section 19-2-1001, MCA, is amended to read:

"19-2-1001. Maximum contribution and benefit limitations. (1) (a) Employee contributions paid to and retirement benefits paid from a retirement system or plan may not exceed the annual limits on contributions and benefits, respectively, allowed by section 415 of the Internal Revenue Code, 26 U.S.C. 415.

(b) For purposes of determining whether the annual limitations in subsection (1)(a) are met:

(i) all defined benefit plans of the employer, whether or not terminated, must be treated as a single defined benefit plan;

(ii) all defined contribution plans of the employer, whether terminated or not, must be treated as a single defined contribution plan;

(iii) retirement systems and plans established under Title 19 must be prioritized for disqualification purposes above any plans not established under Title 19; and

(iv) retirement systems and plans established under Title 19 that must be aggregated for purposes of the limits in section 415 of the Internal Revenue Code, 26 U.S.C. 415, must be prioritized for qualification purposes based on the system or plan providing the member with the highest benefit.

(2) A member may not receive an annual benefit that exceeds the dollar amount specified in section 415(b)(1)(A) of the Internal Revenue Code, 26 U.S.C. 415(b)(1)(A), subject to the applicable adjustments in section ~~415(b)~~ 415(d) of the Internal Revenue Code, 26 U.S.C. 415(d).

(3) Notwithstanding any other provision of law to the contrary, the board may modify a request by a member to make a contribution to a retirement system or plan if the amount of the contribution would exceed the limits provided in section 415 of the Internal Revenue Code, by using the following methods:

(a) If the law requires a lump-sum payment for the purchase of service credit, the board may establish a periodic payment plan for the member to avoid a contribution in excess of the limits under section 415(c) or 415(n) of the Internal Revenue Code, 26 U.S.C. 415(c) or 415(n).

(b) If payment pursuant to subsection (3)(a) will not avoid a contribution in excess of the limits imposed

by section 415(c) of the Internal Revenue Code, 26 U.S.C. 415(c), the board shall either reduce the member's contribution to an amount within the limits of that section or refuse the member's contribution.

(4) (a) Effective for permissive service credit contributions made in limitation years beginning after December 31, 1997, if a member makes one or more contributions to purchase permissive service credit under a retirement system or plan to which this section applies, then the requirements of this section will be treated as met only if:

(i) except as provided in subsection (4)(b), the requirements of section 415(b) of the Internal Revenue Code, 26 U.S.C. 415(b), are met, determined by treating the accrued benefit derived from all the contributions as an annual benefit for purposes of section 415(b) of the Internal Revenue Code, 26 U.S.C. 415(b); or

(ii) except as provided in subsection (4)(c), the requirements of section 415(c) of the Internal Revenue Code, 26 U.S.C. 415(c), are met, determined by treating all the contributions as annual additions for purposes of section 415(c) of the Internal Revenue Code, 26 U.S.C. 415(c).

(b) For purposes of applying subsection (4)(a)(i), the retirement system or plan may not fail to meet the reduced limit under section 415(b)(2)(C) of the Internal Revenue Code, 26 U.S.C. 415(b)(2)(C), solely by reason of subsection (4)(a).

(c) For purposes of applying subsection (4)(a)(ii), the retirement system or plan may not fail to meet the percentage limitation under section 415(c)(1)(B) of the Internal Revenue Code, 26 U.S.C. 415(c)(1)(B) solely by reason of this subsection (4).

(5) For purposes of subsection (4), the term "permissive service credit" means service credit:

(a) specifically recognized by a plan subject to this chapter for purposes of calculating a plan member's benefit under the member's plan;

(b) that the plan member has not received under the plan;

(c) that the plan member may receive only by making a voluntary additional contribution, in an amount determined under the plan, that does not exceed the amount necessary to fund the benefit attributable to the service credit; and

(d) effective for permissive service credit contributions made in limitation years beginning after December 31, 1997, service credit for periods for which there is no performance of service, which, notwithstanding subsection (5)(b), may include service credit purchased in order to provide an increased benefit under the plan.

(6) A retirement system or plan fails to meet the requirements of subsection (4) if:

(a) more than 5 years of nonqualified service credit are taken into account; or

(b) any nonqualified service credit is taken into account before the plan member has at least 5 years of participation under the plan.

(7) For purposes of subsection (6), effective for permissive service credit contributions made in limitation years beginning after December 31, 1997, the term "nonqualified service credit" means permissive service credit other than that allowed with respect to:

(a) service, including parental, medical, sabbatical, and similar leave, as an employee of the government of the United States, any state or political subdivision of a state, or any agency or instrumentality of a state or of a political subdivision of a state, other than military service or service for credit that was obtained as a result of a repayment of a refund as described in section 415(k)(3) of the Internal Revenue Code, 26 U.S.C. 415(k)(3);

(b) service, including parental, medical, sabbatical, and similar leave, as an employee, other than an employee described in subsection (7)(a), of an education organization described in section 170(b)(1)(A)(ii) of the Internal Revenue Code, 26 U.S.C. 170(b)(1)(A)(ii), that is a public, private, or sectarian school that provides elementary or secondary education through grade 12 or a comparable level of education, as determined under the applicable law of the jurisdiction in which the service was performed;

(c) service as an employee of an association of employees who are described in subsection (7)(a); or

(d) military service, other than qualified military service under section 414(u) of the Internal Revenue Code, 26 U.S.C. 414(u), recognized by the system or plan.

(8) In the case of service described in subsection (7)(a), (7)(b), or (7)(c), service must be nonqualified service if recognition of the service would cause a plan member to receive a retirement benefit for the same service under more than one plan.

(9) In the case of a trustee-to-trustee transfer after December 31, 2001, to which section 403(b)(13)(A) or 457(e)(17)(A) of the Internal Revenue Code, 26 U.S.C. 403(b)(13)(A) or 457 (e)(17)(A), applies, without regard to whether the transfer is made between plans maintained by the same employer:

(a) the limitations in subsection (7) do not apply in determining whether the transfer is for the purchase of permissive service credit; and

(b) the distribution rules applicable to the plan under federal law apply to those amounts and any benefits attributable to those amounts.

(10) (a) For purposes of this subsection (10), an eligible plan member is an individual who became a

member of the plan before January 1, 1998.

(b) For an eligible plan member, the limitation in section 415(c)(1) of the Internal Revenue Code, 26 U.S.C. 415(c)(1), may not be applied to reduce the amount of permissive service credit that may be purchased to an amount less than the amount that was allowed to be purchased under the terms of the applicable law in effect on August 5, 1997.

(4)(11) The limitation year for purposes of section 415 of the Internal Revenue Code, 26 U.S.C. 415, is the calendar year beginning each January 1 and ending December 31.

(5)(12) (a) "Salary" or any other similar term used, for the purposes of determining compliance with section 415 of the Internal Revenue Code, 26 U.S.C. 415, includes and for no other purposes, means compensation as defined in 26 CFR 1.415(c)-1 through 1.415(c)-2(d)(4). However:

(i) employee contributions picked up under section 414(h)(2) of the Internal Revenue Code, 26 U.S.C. 414(h)(2), are excluded from salary; and

(ii) the amount of an elective deferral, as defined in section 402(g) of the Internal Revenue Code, 26 U.S.C. 402(g), or any other contribution that is contributed or deferred by the employer at the election of the member and that is not includable in the gross income of the member because of sections section 125, 403(b), or 457 of the Internal Revenue Code, 26 U.S.C. 125, 403(b), or 457, is included in the definition.

(b) For limitation years beginning after December 31, 2000, the term includes any elective amounts that are not includable in the gross income of the member by reason of section 132(f)(4) of the Internal Revenue Code, 26 U.S.C. 132(f)(4).

(c) For limitation years beginning no later than January 1, 2008, the term includes compensation paid by the later of 2.5 months after a member's severance from employment or the end of the limitation year that includes the date of the member's severance from employment if:

(i) the payment is regular compensation for services during the member's regular working hours or compensation for services outside the member's regular working hours such as overtime or shift differential, commissions, bonuses, or other similar payments and, absent a severance from employment, the payments would have been paid to the member while the member continued in employment with the employer; or

(ii) the payment is for unused accrued bona fide sick, vacation, or other leave that the member would have been able to use if employment had continued.

(d) For limitation years beginning on or after January 1, 2009, the term, as calculated, may not exceed

the annual limit under section 401(a)(17) of the Internal Revenue Code, 26 U.S.C. 401(a)(17).

(13) For the purposes of applying the limits on a defined benefit plan member's annual benefit under section 415(b) of the Internal Revenue Code, 26 U.S.C. 415(b), the following apply:

(a) Prior to January 1, 2009, any automatic adjustment under the retirement system or a plan subject to this chapter must be taken into consideration when determining a member's applicable limit.

(b) On or after January 1, 2009, with respect to a member who does not receive a portion of the member's annual benefit in a lump sum:

(i) a member's applicable limit must be applied to the member's annual benefit in the first limitation year without regard to any automatic cost-of-living increases;

(ii) to the extent the member's annual benefit equals or exceeds the applicable limit, the member is no longer eligible for cost-of-living increases until the benefit plus the accumulated increases are less than the limit; and

(iii) in any subsequent limitation year, the member's annual benefit, including any automatic cost-of-living increase applicable, is subject to the applicable benefit limit, including any adjustment to the dollar limit in section 415(b)(1)(A) of the Internal Revenue Code, 26 U.S.C. 415(b)(1)(A), under section 415(d) of the Internal Revenue Code, 26 U.S.C. 415(d) and the implementing regulations.

(c) On or after January 1, 2009, with respect to a member who receives a portion of the member's annual benefit in a lump sum, a member's applicable limit must be applied, taking into consideration automatic cost-of-living increases as required by section 415(b) of the Internal Revenue Code, 26 U.S.C. 415(b), and applicable U.S. treasury regulations.

(d) (i) A member's annual benefit payable under the member's plan in any limitation year may not be greater than the limit applicable at the annuity starting date, as increased in subsequent years pursuant to section 415(d) of the Internal Revenue Code, 26 U.S.C. 415(d), and the implementing regulations.

(ii) If the form of benefit without regard to the automatic benefit increase feature is not a straight life or a qualified joint and survivor annuity, then this subsection (13)(d) is applied by either reducing the limit in section 415(b) of the Internal Revenue Code, 26 U.S.C. 415(b), applicable at the annuity starting date or adjusting the form of benefit to an actuarially equivalent straight life annuity benefit determined using the following assumptions that take into account the death benefits under the form of benefit:

(A) for a benefit paid in a form to which section 417(e)(3) of the Internal Revenue Code, 26 U.S.C.

417(e)(3), does not apply, the actuarially equivalent straight life annuity benefit that is the greater of:

(I) the annual amount of any straight life annuity payable to the member under the member's plan commencing at the same annuity starting date as the form of benefit payable to the member; or

(II) the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the form of benefit payable to the member, computed using a 5% interest assumption, or the applicable statutory interest assumption, and the applicable mortality table described in 26 CFR 1.417(e)-1(d)(2); or

(B) for a benefit paid in a form to which section 417(e)(3) of the Internal Revenue Code, 26 U.S.C. 417(e)(3), applies, the actuarially equivalent straight life annuity benefit that is the greatest of:

(I) the annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable, computed using the interest rate and mortality table or tabular factor specified in the plan for actuarial experience;

(II) the annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable, computed using a 5.5% interest assumption, or the applicable statutory interest assumption, and the applicable mortality table for the distribution under 26 CFR 1.417(e)-1(d)(2); or

(III) the annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable, computed using as the applicable interest rate for the distribution under 26 CFR 1.417(e)-1(d)(3) prior to January 1, 2009, the 30-year treasury rate in effect for the month prior to retirement or, on or after January 1, 2009, the 30-year treasury rate in effect for the first day of the plan year with a 1-year stabilization period and, in either case, the applicable mortality table for the distribution under 26 CFR 1.417(e)-1(d)(2).

(iii) With respect to subsections (13)(d)(ii)(A) and (13)(d)(ii)(B), the board's actuary may reduce the limitation found in section 415(b) of the Internal Revenue Code, 26 U.S.C. 415(b), for testing purposes using the assumptions specified in subsections (13)(d)(ii)(A) and (13)(d)(ii)(B)."

Section 7. Section 19-2-1002, MCA, is amended to read:

"19-2-1002. ~~Vesting of retirement benefits upon termination~~ Termination of plan. (1) Upon termination of a retirement system or plan, termination of employment of a substantial number of members that

would constitute a partial termination of the retirement system or plan, or complete discontinuance of contributions to that retirement system or plan, the retirement benefit accrued to each member directly affected by the occurrence becomes fully vested and nonforfeitable to the extent funded.

(2) A plan member is 100% vested in the member's accumulated contributions at all times.

(3) At any time prior to satisfaction of all liabilities to members and their beneficiaries under the retirement system or plan, any part of a member's accumulated contributions may not be used for or diverted to purposes other than the exclusive benefit of members and their beneficiaries."

Section 8. Section 19-2-1005, MCA, is amended to read:

"19-2-1005. Compensation limit. A retirement system or plan subject to this chapter may not take into account compensation of a member in excess of the amount permitted in ~~Internal Revenue Code~~ section 401(a)(17) of the Internal Revenue Code, 26 U.S.C. 401(a)(17), as adjusted for cost-of-living increases in accordance with section 401(a)(17)(B) of the Internal Revenue Code, 26 U.S.C. 401(a)(17)(B)."

Section 9. Limitations on eligible rollover distributions. (1) An eligible rollover distribution may not include:

(a) any distribution that is one of a series of substantially equal periodic payments made at least annually for:

(i) the life or the life expectancy of the distributee;

(ii) the joint lives or joint life expectancies of the distributee and the distributee's designated beneficiary;

or

(iii) a specified period of 10 years or more;

(b) any distribution to the extent the distribution is required under section 401(a)(9) of the Internal Revenue Code, 26 U.S.C. 401(a)(9);

(c) the portion of any distribution that is not includable in gross income; or

(d) any other distribution that is reasonably expected to total less than \$200 during the year.

(2) Effective January 1, 2002, a portion of a distribution may not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions that are not includable in gross income. However, that portion may be transferred only to:

- (a) an individual retirement account or annuity described in section 408(a) or (b) of the Internal Revenue Code, 26 U.S.C. 408(a) or (b);
- (b) a qualified defined contribution plan described in section 401(a) of the Internal Revenue Code, 26 U.S.C. 401(a);
- (c) a qualified plan described in section 403(a) of the Internal Revenue Code, 26 U.S.C. 403(a);
- (d) on or after January 1, 2007, a qualified defined benefit plan described in section 401(a) of the Internal Revenue Code, 26 U.S.C. 401(a); or
- (e) an annuity contract described in section 403(b) of the Internal Revenue Code, 26 U.S.C. 403(b), that agrees to separately account for amounts that are transferred and earnings on those amounts, including separately accounting for the portion of the distribution that is includable in gross income and the portion of the distribution that is not includable.

Section 10. Compliance with federal restrictions on interest rate crediting. Interest credited on any refund of accumulated member contributions under a defined benefit plan subject to Title 19, chapter 2, must comply with any applicable provisions of the federal Age Discrimination in Employment Act, Public Law 90-202, and any applicable U.S. treasury regulations establishing market rates of return for purposes of complying with that federal act.

Section 11. Section 19-3-315, MCA, is amended to read:

"19-3-315. Member's contribution to be deducted. (1) Each member's contribution is 6.9% of the member's compensation.

(2) Payment of salaries or wages less the contribution is full and complete discharge and acquittance of all claims and demands for the service rendered by members during the period covered by the payment, except their claims to the benefits to which they may be entitled under the provisions of this chapter.

(3) Each employer, pursuant to section 414(h)(2) of the federal Internal Revenue Code ~~of 1954, as amended and applicable on July 1, 1985,~~ 26 U.S.C. 414(h)(2), shall pick up and pay the contributions that would be payable by the member under subsection (1) for service rendered after June 30, 1985.

(4) (a) The member's contributions picked up by the employer must be designated for all purposes of the retirement system as the member's contributions, except for the determination of a tax upon a distribution

from the retirement system.

(b) In the case of a member of the defined benefit plan, these contributions must become part of the member's accumulated contributions but must be accounted for separately from those previously accumulated.

(c) In the case of a member of the defined contribution plan, these contributions must be allocated as provided in 19-3-2117.

(5) The member's contributions picked up by the employer must be payable from the same source as is used to pay compensation to the member and must be included in the member's wages, as defined in 19-1-102, and compensation. The employer shall deduct from the member's compensation an amount equal to the amount of the member's contributions picked up by the employer and remit the total of the contributions to the board."

Section 12. Section 19-3-412, MCA, is amended to read:

"19-3-412. Optional membership. (1) Except as provided in 5-2-304 and subsection (2) of this section, the following employees and elected officials in covered positions shall elect either to become active members of the retirement system or to decline this optional membership by filing an irrevocable, written application with the board in the manner prescribed in subsection (3):

(a) elected officials of the state or local governments, including individuals appointed to fill the unexpired term of elected officials, who:

(i) are paid on a salary or wage basis rather than on a per diem or other reimbursement basis; or

(ii) were members receiving retirement benefits under the defined benefit plan or a distribution under the defined contribution plan at the time of their election;

(b) employees serving in employment that does not cumulatively exceed a total of 960 hours of covered employment with all employers under this chapter in any fiscal year;

(c) employees directly appointed by the governor;

(d) employees working 10 months or less for the legislative branch to perform work related to the legislative session;

(e) the chief administrative officer of any city or county;

(f) employees of county hospitals or rest homes.

(2) A member who is elected to a local government position in which the member works less than 960

hours in a calendar year may, within ~~480~~ 90 days of being elected, decline optional membership with respect to the member's elected position.

(3) (a) The board shall prescribe the form of the written application required pursuant to subsection (1) and provide written application forms to each employer.

(b) Each employee or elected official in a position covered under subsection (1) shall obtain the written application form from the employer and complete and return it to the board.

(c) The written application must be filed with the board:

(i) for an employee described in subsection (1)(d), within ~~300~~ 90 days of the commencement of the employee's employment; and

(ii) for an employee or elected official described in subsection (1)(a), (1)(b), (1)(c), (1)(e), or (1)(f), within ~~480~~ 90 days of the commencement of the employee's or elected official's employment.

(d) The employer shall retain a copy of the employee's or elected official's written application.

(4) If the employee or elected official fails to file the written application required under subsection (1) with the board within the time allowed in subsection (3), the employee or elected official waives membership.

(5) An employee or elected official who declines optional membership may not receive membership service or service credit for the employment for which membership was declined.

(6) An employee or elected official who declined optional membership but later becomes a member may purchase service credit for the period of time beginning with the date of employment in which membership was declined to the commencement of membership. Purchase of service credit pursuant to this subsection must comply with 19-3-505.

(7) Except as provided in subsection (2), membership in the retirement system is not optional for an employee or elected official who is already a member. Upon employment in a position for which membership is optional:

(a) a member who was an active member before the employment remains an active member;

(b) a member who was an inactive member before the employment becomes an active member; and

(c) a member who was a retired member before the employment is subject to part 11 of this chapter.

(8) (a) An employee ~~or elected official~~ who declines membership for a position for which membership is optional may not later become a member while still employed with the same employer but in that a different optional membership position.

(b) An elected official who declines membership for a position for which membership is optional may not later become a member if reelected to the same optional membership position.

~~(b)~~(c) If, after a break in service of 30 days or more, an employee who was employed in an optional membership position is reemployed in the same position or is employed in a different position for which membership is optional, the employee shall again choose or decline membership.

~~(c)~~(d) If the break in service is less than 30 days, an employee who declined membership is bound by the employee's original decision to decline membership.

(9) An employee accepting a position that requires membership must become a member even if the employee previously declined membership and did not have a 30-day break in service."

Section 13. Section 19-3-1501, MCA, is amended to read:

"19-3-1501. Optional forms of benefits -- designation of contingent annuitant. (1) The retirement benefit of a member or the survivorship benefit of a designated beneficiary who so elects must be converted, in lieu of all other benefits under this chapter, into an optional retirement benefit that is the actuarial equivalent of the original benefit. An optional retirement benefit is initially payable during the member's or designated beneficiary's lifetime, with a subsequent benefit, depending on the option selected, to a contingent annuitant as follows:

(a) option 2--a continuation of the optional retirement benefit after the death of the initial payee and payable during the lifetime of the named contingent annuitant; This option may be the chosen benefit only if the adjusted age difference between the member or designated beneficiary and the contingent annuitant, other than the member's or designated beneficiary's spouse, is 10 years or less. The adjusted age difference is either:

(i) the excess of the age of the member or designated beneficiary over the age of the nonspouse contingent annuitant based on their ages on their birthdays in a calendar year; or

(ii) if the member or designated beneficiary is under 70 years of age, the age difference determined in subsection (1)(a)(i) reduced by the number of years that the member or designated beneficiary is under 70 years of age on the member's or beneficiary's birthday in the calendar year that contains the benefit starting date.

(b) option 3--a continuation of one-half of the optional retirement benefit after the death of the initial payee and payable during the lifetime of the named contingent annuitant;

(c) option 4--a continuation of the optional retirement benefit to one or more contingent annuitants in the

event of the initial payee's death before the end of a period certain, determined as follows:

(i) the period certain commences at the time that the initial payee first begins receiving the retirement benefit and is available as either:

(A) a 10-year period certain if the member retired at 75 years of age or younger; or

(B) a 20-year period certain if the member retired at 65 years of age or younger;

(ii) if there is more than one surviving contingent annuitant, each contingent annuitant must receive a proportion of the initial payee's benefit on a share-and-share-alike basis.

(2) The member or the designated beneficiary who elects an optional retirement benefit shall file a written application with the board prior to the first payment of the benefit. A contingent annuitant must be identified on the application.

(3) ~~If a benefit recipient or the recipient's~~ the member or designated beneficiary or the named contingent annuitant dies before the first payment has been made under option 2 or 3, the election of the option is automatically canceled.

(4) ~~If a~~ the member dies after retirement and within 30 days from the date that the member's written application electing or changing an election of an optional retirement benefit is received by the board, then the election is void.

(5) ~~(a) Upon filing a written application with the board, a~~ A retired member who is receiving an optional retirement benefit that became effective before October 1, 1999, may designate a different contingent annuitant, select a different option, or convert pursuant to subsection (1)(a) or (1)(b) may file a written application with the board to have the member's optional retirement benefit revert to a the regular retirement benefit available at the time of the member's retirement if:

~~(i)(a)~~ (i)(a) the original contingent annuitant has died; in which case the optional benefit must revert effective on the first day of the month following the contingent annuitant's death; or

~~(ii)(b)~~ (ii)(b) the member's marriage to the original contingent annuitant has been dissolved and the original contingent annuitant has not been granted the right to receive the optional retirement benefit as part of a family law order, as defined in 19-2-907. The benefit must then revert effective on the first day of the month following receipt of the written application and verification that the family law order does not grant the optional benefit to the original contingent annuitant.

~~(b) Upon receipt of the written application, the board shall actuarially adjust the member's monthly~~

retirement benefit to reflect the change:

~~—— (6) (a) A retired member receiving an optional retirement benefit pursuant to subsection (1)(a) or (1)(b) that is initially effective on or after October 1, 1999, may file a written application with the board to have the optional retirement benefit revert to the regular retirement benefit available at the time of the member's retirement, designate a different contingent annuitant, or select a different option if:~~

~~—— (i) the contingent annuitant has died, in which case the optional benefit may revert effective on the first day of the month following the contingent annuitant's death; or~~

~~—— (ii) the member's marriage to the contingent annuitant is dissolved and the beneficiary has no right to receive the optional retirement benefit as part of a family law order, in which case the benefit must revert effective on the first day of the month following receipt of the written application and verification that the family law order does not grant the optional benefit to the contingent annuitant.~~

~~—— (b) A regular retirement benefit provided pursuant to this subsection (6) must be increased by the amount of any postretirement adjustments received by the member since the effective date of the member's retirement.~~

(6) A member who applies to revert under subsection (5) shall, at the time of the application, choose one of the following alternatives:

(a) revert to the member's original retirement benefit, increased by the amount of any adjustments received by the member since the effective date of the member's retirement;

(b) retain the same option 2 or option 3 originally selected but name a new contingent annuitant; or

(c) select a different option and name a new contingent annuitant.

(7) If the member selects an alternative under subsection (6)(b) or (6)(c), the member's retirement benefit must be calculated based on the member's and the new contingent annuitant's ages at the time of this election.

~~(7)(8)~~ A written application pursuant to subsection (5) or (6) must be filed with the board within 18 months of the death of or dissolution of marriage to the contingent annuitant."

Section 14. Section 19-3-2123, MCA, is amended to read:

"19-3-2123. Payout of vested account balances when terminating plan membership. Except as provided in 19-3-2142, any time after termination of service, a member or the member's beneficiary may terminate plan membership by filing a written application with the board and removing the member's vested account balance from the plan through any combination of the following payout options, each of which is subject to

applicable regulations of the internal revenue service:

(1) a direct rollover to an eligible retirement plan ~~or to, which includes~~ an individual retirement account or annuity and, effective January 1, 2008, a Roth IRA provided for in section 408A of the Internal Revenue Code, 26 U.S.C. 408A, pursuant to section 401(a)(31) of the Internal Revenue Code, 26 U.S.C. 401(a)(31);

(2) a regular rollover to an eligible retirement plan pursuant to section 402(c) of the Internal Revenue Code, 26 U.S.C. 402(c); or

(3) a lump-sum distribution of the member's vested account balance."

Section 15. Section 19-3-2126, MCA, is amended to read:

"19-3-2126. Refunds -- minimum account balance -- adjustment by rule. (1) Before termination of service, a member may not receive a refund of any portion of the member's vested account balance.

(2) Except as provided in 19-3-2142, a member who terminates service and whose vested account balance is less than \$200 must be paid the vested account balance in a lump sum. If the member's employer contribution account is not vested, the employer contributions and income are forfeited and must be allocated as provided in 19-3-2117. The payment must be made as soon as administratively feasible without a written application from the member.

(3) Except as provided in 19-3-2142, unless a written application is made pursuant to subsection (4)(a), a member who terminates service and whose vested account balance is between \$200 and ~~\$5,000~~ \$1,000 must be paid the vested account balance in a lump sum. The payment must be made as soon as administratively feasible. If the member's employer contribution account is not vested, the employer contributions and income are forfeited and must be allocated as provided in 19-3-2117.

(4) (a) Except as provided in 19-3-2142, upon the written application of a member terminating service whose vested account balance is \$200 or more, the board shall make a direct rollover distribution pursuant to section 401(a)(31) of the Internal Revenue Code, 26 U.S.C. 401(a)(31), of the eligible rollover distribution portion of that balance. To receive the direct rollover distribution, the member is responsible for correctly designating, on forms provided by the board, an eligible retirement plan that allows the rollover under applicable federal law.

(b) The direct rollover distribution must be paid directly to ~~the~~ an eligible retirement plan allowed under applicable federal law that, effective January 1, 2008, includes a Roth IRA provided for in section 408A of the Internal Revenue Code, 26 U.S.C. 408A.

(5) A member who terminates service with an account balance greater than ~~\$5,000~~ \$1,000, whether vested or not, may remain in the plan.

(6) The board may by rule adjust the minimum account balance provided in this section as necessary to maintain reasonable administrative costs and to account for inflation and in accordance with the requirements of section 401(a)(31)(B) of the Internal Revenue Code, 26 U.S.C. 401(a)(31)(B), and applicable regulations."

Section 16. Section 19-5-701, MCA, is amended to read:

"19-5-701. Optional forms of benefits -- designation of contingent annuitant. (1) The retirement benefit of a member or the survivorship benefit of a designated beneficiary who so elects must be converted, in lieu of all other benefits under this chapter, into an optional retirement benefit that is the actuarial equivalent of the original benefit. An optional retirement benefit is initially payable during the member's or designated beneficiary's lifetime, with a subsequent benefit, depending on the option selected, to a contingent annuitant as follows:

(a) option 2--a continuation of the optional retirement benefit after the death of the initial payee and payable during the lifetime of the named contingent annuitant; This option may be the chosen benefit only if the adjusted age difference between the member or designated beneficiary and the contingent annuitant, other than the member's or designated beneficiary's spouse, is 10 years or less. The adjusted age difference is either:

(i) the excess of the age of the member or designated beneficiary over the age of the nonspouse contingent annuitant based on their ages on their birthdays in a calendar year; or

(ii) if the member or designated beneficiary is under 70 years of age, the age difference determined in subsection (1)(a)(i) reduced by the number of years that the member or designated beneficiary is under 70 years of age on the member's or beneficiary's birthday in the calendar year that contains the benefit starting date.

(b) option 3--a continuation of one-half of the optional retirement benefit after the death of the initial payee and payable during the lifetime of the named contingent annuitant;

(c) option 4--a continuation of the optional retirement benefit to one or more contingent annuitants in the event of the initial payee's death before the end of a period certain, determined as follows:

(i) the period certain commences at the time that the initial payee first begins receiving the retirement benefit and is available as either:

(A) a 10-year period certain if the member retired at 75 years of age or younger; or

(B) a 20-year period certain if the member retired at 65 years of age or younger;

(ii) if there is more than one surviving contingent annuitant, each contingent annuitant must receive a proportion of the initial payee's benefit on a share-and-share-alike basis.

(2) The member or designated beneficiary who elects an optional retirement benefit shall file a written application with the board prior to the first payment of the benefit. A contingent annuitant must be identified on the application.

(3) If ~~a benefit recipient or the recipient's~~ the member or designated beneficiary or the named contingent annuitant dies before the first payment has been made under option 2 or 3, the election of the option is automatically canceled.

(4) If the member dies after retirement and within 30 days from the date that the member's written application electing or changing an election of an optional retirement benefit is received by the board, the election is void.

(5) ~~(a)~~ A retired member receiving an optional retirement benefit pursuant to subsection (1)(a) or (1)(b) ~~that is initially effective on or after October 1, 1999,~~ may file a written application with the board to have the member's optional retirement benefit revert to the regular retirement benefit available at the time of the member's retirement if:

~~(i)(a)~~ the original contingent annuitant has died, in which case the optional benefit must revert effective on the first day of the month following the contingent annuitant's death; or

~~(ii)(b)~~ the member's marriage to the original contingent annuitant ~~is~~ has been dissolved and the ~~beneficiary original contingent annuitant~~ has not been granted the right to receive the optional retirement benefit as part of a family law order, as defined in 19-2-907, ~~in which case the~~ The benefit must then revert effective on the first day of the month following receipt of the written application and verification that the family law order does not grant the optional benefit to the original contingent annuitant.

~~(b) A regular retirement benefit provided pursuant to this subsection (5) must be increased by the amount of any postretirement adjustments received by the member since the effective date of the member's retirement.~~

~~(6) A written application pursuant to subsection (5) must be filed with the board within 18 months of the death of or dissolution of marriage to the contingent annuitant.~~ A member who applies to revert under subsection (5) shall, at the time of the application, choose one of the following alternatives:

(a) revert to the member's original retirement benefit, increased by the amount of any adjustments

received by the member since the effective date of the member's retirement;

(b) retain the same option 2 or option 3 originally selected but name a new contingent annuitant; or

(c) select a different option and name a new contingent annuitant.

~~(7) (a) Upon filing a written application with the board, a retired member who is receiving an optional retirement benefit may designate a different contingent annuitant, select a different option, or convert the member's optional retirement benefit to a regular retirement benefit if:~~

~~—— (i) the original contingent annuitant has died; or~~

~~—— (ii) the member has been divorced from the original contingent annuitant and the original contingent annuitant has no right to receive the optional retirement benefit as part of a family law order.~~

~~—— (b) Upon receipt of the written application, the board shall actuarially adjust the member's monthly retirement benefit to reflect the change. If the member selects an alternative under subsection (6)(b) or (6)(c), the member's retirement benefit must be calculated based on the member's and the new contingent annuitant's ages at the time of this election.~~

(8) A written application pursuant to subsection (5) must be filed with the board within 18 months of the death of or dissolution of marriage to the contingent annuitant."

Section 17. Section 19-7-1001, MCA, is amended to read:

"19-7-1001. Optional forms of benefits -- designation of contingent annuitant. (1) The retirement benefit of a member or the survivorship benefit of a designated beneficiary who so elects must be converted, in lieu of all other benefits under this chapter, into an optional retirement benefit that is the actuarial equivalent of the original benefit. An optional retirement benefit is initially payable during the member's or designated beneficiary's lifetime with a subsequent benefit, depending on the option selected, to a contingent annuitant, as follows:

(a) option 2--a continuation of the optional retirement benefit after the death of the initial payee and payable during the lifetime of the named contingent annuitant; This option may be the chosen benefit only if the adjusted age difference between the member or designated beneficiary and the contingent annuitant, other than the member's or designated beneficiary's spouse, is 10 years or less. The adjusted age difference is either:

(i) the excess of the age of the member or designated beneficiary over the age of the nonspouse contingent annuitant based on their ages on their birthdays in a calendar year; or

(ii) if the member or designated beneficiary is under 70 years of age, the age difference determined in subsection (1)(a)(i) reduced by the number of years that the member or designated beneficiary is under 70 years of age on the member's or beneficiary's birthday in the calendar year that contains the benefit starting date.

(b) option 3--a continuation of one-half of the optional retirement benefit after the death of the initial payee and payable during the lifetime of the named contingent annuitant;

(c) option 4--a continuation of the optional retirement benefit to one or more contingent annuitants in the event of the initial payee's death before the end of a period certain, determined as follows:

(i) the period certain commences at the time that the initial payee first begins receiving the retirement benefit and is available as either:

(A) a 10-year period certain if the member retired at 75 years of age or younger; or

(B) a 20-year period certain if the member retired at 65 years of age or younger;

(ii) if there is more than one surviving contingent annuitant, each contingent annuitant must receive a proportion of the initial payee's benefit on a share-and-share-alike basis.

(2) The member or the designated beneficiary who elects an optional retirement benefit shall file a written application with the board prior to the first payment of the benefit. A contingent annuitant must be identified on the application.

(3) ~~If a benefit recipient or the recipient's~~ the member or designated beneficiary or the named contingent annuitant dies before the first payment has been made under option 2 or 3, the election of the option is automatically canceled.

(4) If the member dies after retirement and within 30 days from the date that the member's written application electing or changing an election of an optional retirement benefit is received by the board, the election is void.

(5) ~~(a)~~ A retired member receiving an optional retirement benefit pursuant to subsection (1)(a) or (1)(b) ~~that is initially effective on or after October 1, 1999,~~ may file a written application with the board to have the member's optional retirement benefit revert to the regular retirement benefit available at the time of the member's retirement if:

~~(i)(a)~~ (a) the original contingent annuitant has died, in which case the optional benefit must revert effective on the first day of the month following the contingent annuitant's death; or

~~(i)(b)~~ (b) the member's marriage to the original contingent annuitant ~~is~~ has been dissolved and the

~~beneficiary original contingent annuitant~~ has ~~no~~ not been granted the right to receive the optional retirement benefit as part of a family law order, as defined in 19-2-907; ~~in which case the~~. The benefit must revert effective on the first day of the month following receipt of the written application and verification that the family law order does not grant the optional benefit to the contingent annuitant.

~~(b) A regular retirement benefit provided pursuant to this subsection (5) must be increased by the amount of any postretirement adjustments received by the member since the effective date of the member's retirement.~~

~~(6) A written application pursuant to subsection (5) must be filed with the board within 18 months of the death of or dissolution of marriage to the contingent annuitant.~~ member who applies to revert under subsection (5) shall, at the time of the application, choose one of the following alternatives:

(a) revert to the member's original retirement benefit, increased by the amount of any adjustments received by the member since the effective date of the member's retirement;

(b) retain the same option 2 or option 3 originally selected but name a new contingent annuitant; or

(c) select a different option and name a new contingent annuitant.

~~(7) (a) Upon filing a written application with the board, a retired member who is receiving an optional retirement benefit may designate a different contingent annuitant, select a different option, or convert the member's optional retirement benefit to a regular retirement benefit if:~~

~~—— (i) the original contingent annuitant has died; or~~

~~—— (ii) the member has been divorced from the original contingent annuitant and the original contingent annuitant has no right to receive the optional retirement benefit as part of the a family law order.~~

~~—— (b) Upon receipt of the written application, the board shall actuarially adjust the member's monthly retirement benefit to reflect the change.~~ If the member selects an alternative under subsection (6)(b) or (6)(c), the member's retirement benefit must be calculated based on the member's and the new contingent annuitant's ages at the time of the election.

(8) A written application pursuant to subsection (5) must be filed with the board within 18 months of the death of or dissolution of marriage to the contingent annuitant."

Section 18. Section 19-8-801, MCA, is amended to read:

"19-8-801. Optional forms of benefits -- designation of contingent annuitant. (1) The retirement benefit of a member or the survivorship benefit of a designated beneficiary who so elects must be converted, in

lieu of all other benefits under this chapter, ~~be converted~~ into an optional retirement benefit that is the actuarial equivalent of the original benefit. An optional retirement benefit is initially payable during the member's or designated beneficiary's lifetime with a subsequent benefit, depending on the option selected, to a contingent annuitant as follows:

(a) option 2--a continuation of the optional retirement benefit after the death of the initial payee and payable during the lifetime of the named contingent annuitant; This option may be the chosen benefit only if the adjusted age difference between the member or designated beneficiary and the contingent annuitant, other than the member's or designated beneficiary's spouse, is 10 years or less. The adjusted age difference is either:

(i) the excess of the age of the member or designated beneficiary over the age of the nonspouse contingent annuitant based on their ages on their birthdays in a calendar year; or

(ii) if the member or designated beneficiary is under 70 years of age, the age difference determined in subsection (1)(a)(i) reduced by the number of years that the member or designated beneficiary is under 70 years of age on the member's or beneficiary's birthday in the calendar year that contains the benefit starting date.

(b) option 3--a continuation of one-half of the optional retirement benefit after the death of the initial payee and payable during the lifetime of the named contingent annuitant;

(c) option 4--a continuation of the optional retirement benefit to one or more contingent annuitants in the event of the initial payee's death before the end of a period certain, determined as follows:

(i) the period certain commences at the time that the initial payee first begins receiving the retirement benefit and is available as either:

(A) a 10-year period certain if the member retired at 75 years of age or younger; or

(B) a 20-year period certain if the member retired at 65 years of age or younger;

(ii) if there is more than one surviving contingent annuitant, each contingent annuitant must receive a proportion of the initial payee's benefit on a share-and-share-alike basis.

(2) The member or the designated beneficiary who elects an optional retirement benefit shall file a written application with the board prior to the first payment of the benefit. A contingent annuitant must be identified on the application.

(3) ~~If a benefit recipient or the recipient's~~ the member or designated beneficiary or the named contingent annuitant dies before the first payment has been made under option 2 or 3, the election of the option is automatically canceled.

(4) If the member dies after retirement and within 30 days from the date that the member's written application electing or changing an election of an optional retirement benefit is received by the board, the election is void.

(5) ~~(a)~~ A retired member receiving an optional retirement benefit pursuant to subsection (1)(a) or (1)(b) ~~that is initially effective on or after October 1, 1999,~~ may file a written application with the board to have the member's optional retirement benefit revert to the regular retirement benefit available at the time of the member's retirement if:

~~(i)(a)~~ the original contingent annuitant has died, in which case the optional benefit must revert effective on the first day of the month following the contingent annuitant's death; or

~~(ii)(b)~~ the member's marriage to the original contingent annuitant is has been dissolved and the beneficiary original contingent annuitant has not been granted the right to receive the optional retirement benefit as part of a family law order, as defined in 19-2-907, in which case the The benefit must then revert effective on the first day of the month following receipt of the written application and verification that the family law order does not grant the optional benefit to the original contingent annuitant.

~~(b) A regular retirement benefit provided pursuant to this subsection (5) must be increased by the amount of any postretirement adjustments received by the member since the effective date of the member's retirement.~~

~~(6) A written application pursuant to subsection (5) must be filed with the board within 18 months of the death of or dissolution of marriage to the contingent annuitant. A member who applies to revert under subsection (5) shall, at the time of the application, choose one of the following alternatives:~~

(a) revert to the member's original retirement benefit, increased by the amount of any adjustments received by the member since the effective date of the member's retirement;

(b) retain the same option 2 or option 3 originally selected but name a new contingent annuitant; or

(c) select a different option and name a new contingent annuitant.

~~(7) (a) Upon filing a written application with the board, a retired member who is receiving an optional retirement benefit may designate a different contingent annuitant, select a different option, or convert the member's optional retirement benefit to a regular retirement benefit if:~~

~~—— (i) the original contingent annuitant has died; or~~

~~—— (ii) the member has been divorced from the original contingent annuitant and the original contingent annuitant has not been granted the right to receive the optional retirement benefit as part of a family law order.~~

~~_____ (b) Upon receipt of the written application, the board shall actuarially adjust the member's monthly retirement benefit to reflect the change. If the member selects an alternative under subsection (6)(b) or (6)(c), the member's retirement benefit must be calculated based on the member's and the new contingent annuitant's ages at the time of the election.~~

(8) A written application pursuant to subsection (5) must be filed with the board within 18 months of the death of or dissolution of marriage to the contingent annuitant."

Section 19. Section 19-9-301, MCA, is amended to read:

"19-9-301. Active membership -- inactive vested member -- inactive nonvested member. (1) A police officer becomes an active member of the retirement system:

(a) on the date the police officer's service with an employer commences;

(b) on July 1, 1977, if the police officer is employed by an employer on that date; or

(c) in the case of an employer that elects to join the retirement system, as provided in 19-9-207, on the effective date of the election if the police officer is employed by the employer on that date. A person who is a member of the public employees' retirement system on the date of the employer's election may remain in the public employees' retirement system or may elect to become a member of the municipal police officers' retirement system by filing ~~a~~ an irrevocable written election with the board no later than ~~30~~ 90 days after the date of the employer's election.

(2) Upon becoming eligible for membership, the police officer shall complete the forms and furnish the proof required by the board.

(3) A member becomes an inactive member on the first day of an approved absence from service of a substantial duration.

(4) (a) An inactive member with at least 5 years of membership service is an inactive vested member and retains the right to purchase service credit and to receive a retirement benefit under the provisions of this chapter.

(b) If an inactive vested member chooses to take a lump-sum payment rather than a retirement benefit, the lump-sum payment consists of only the member's accumulated contributions and not the employer contributions.

(5) (a) An inactive member with less than 5 years of membership service is an inactive nonvested

member and is not eligible for any benefits from the retirement system.

(b) An inactive nonvested member is eligible only for a refund of the member's accumulated contributions."

Section 20. Section 19-9-1206, MCA, is amended to read:

"19-9-1206. Survivorship benefits. (1) If a participant dies prior to the receipt of the DROP benefit pursuant to 19-9-1208, the participant's surviving spouse or dependent child is entitled to receive a lump-sum payment equal to the participant's DROP benefit and the member's accumulated contributions minus any benefits paid from the member's DROP account, including monthly DROP accruals.

(2) If there is no surviving spouse or dependent child, the designated beneficiary is entitled to receive a lump-sum payment equal to the participant's DROP benefit.

(3) The benefit paid pursuant to this section must include interest credited to the participant's account as follows:

(a) through June 30, 2009, interest must be credited every fiscal yearend at a rate reflecting the retirement system's annual investment earnings from the date the member's DROP period commenced for the applicable fiscal year;

(b) after June 30, 2009, interest must be credited every fiscal yearend at the actuarially assumed rate of return. Proportionate interest must be credited for distributions taking place at other than a fiscal yearend."

Section 21. Section 19-9-1208, MCA, is amended to read:

"19-9-1208. Distribution of DROP benefit. (1) Upon termination of service, a participant is entitled to:

(a) receive a lump-sum distribution of the participant's DROP benefit;
(b) roll the participant's DROP benefit into another eligible retirement plan in a manner prescribed and authorized by the board; or

(c) any other distribution or method of payment of the DROP benefit approved by the board.

(2) A distribution pursuant to this section is subject to the provisions of 19-2-907 and 19-2-909 and all other applicable provisions of Title 19 and the Internal Revenue Code.

(3) The amount of a distribution, rollover, transfer, or other payment of a DROP benefit pursuant to this section must include interest credited to the participant's account as follows:

(a) through June 30, 2009, interest must be credited every fiscal yearend at the rate reflecting the retirement system's annual investment earnings from the date the member's DROP period commenced for the applicable fiscal year;

(b) after June 30, 2009, interest must be credited every fiscal yearend at the actuarially assumed rate of return. Proportionate interest must be credited for distributions taking place at other than a fiscal yearend."

Section 22. Section 19-13-210, MCA, is amended to read:

"19-13-210. Participation in retirement system. (1) Cities of the first and second class that employ full-paid firefighters shall participate in the retirement system. If a city of the first or second class is reduced to a city of the third class or a town under 7-1-4118, it shall continue to participate in the retirement system as long as it has retired firefighters or survivors eligible to receive retirement benefits.

(2) Firefighters hired by the Montana air national guard on or after October 1, 2001, or on or after the date of the execution of an agreement between the department of military affairs and the board, whichever is later, shall participate in the retirement system.

(3) (a) A city that is not covered under subsection (1) and that has full-paid firefighters covered by the public employees' retirement system and any rural fire district department with full-paid firefighters covered by the public employees' retirement system may elect to be covered under the retirement system as provided in 19-13-211.

(b) An election by a city fire department ~~or a rural fire department~~ to be covered by the retirement system must be made through adoption of ~~a resolution~~ an ordinance stating that the governing body of the city ~~or the fire district~~ agrees to be bound by the provisions of the retirement system.

(c) A similar election may be made by a rural fire district through adoption of a resolution stating that the governing body of the fire district agrees to be bound by the provisions of the retirement system.

(d) The ordinance or resolution must specify the effective date of the department's election. The provisions of the retirement system become applicable on the effective date specified in the adopted ordinance or resolution. A certified copy of the ordinance or resolution must be provided to the board.

(4) The following are the terms and conditions of an election ~~by a fire department~~ to join the retirement system pursuant to subsection (3):

(a) Each firefighter employed by the fire department before the effective date of the ~~department's~~ election

must be given ~~180~~ 90 days from the effective date of the department's election to make an individual, one-time, irrevocable election to remain in the public employees' retirement system or to join the retirement system. Failure to make an election under this subsection (4)(a) must be considered an election to remain in the public employees' retirement system.

(b) Each firefighter employed by the fire department who is hired on or after the effective date of the department's election must be covered by the retirement system.

(c) A firefighter electing to join the retirement system may retain prior service in the public employees' retirement system or qualify purchase the prior service in and transfer that prior service to the retirement system as provided for in 19-2-715."

Section 23. Section 19-13-301, MCA, is amended to read:

"19-13-301. Active membership -- inactive vested member -- inactive nonvested member. (1)

Except as provided in subsection (7), a full-paid firefighter becomes an active member of the retirement system:

- (a) on the first day of the firefighter's service with an employer;
- (b) on July 1, 1981, if the firefighter is employed by an employer on that date; or
- (c) in the case of an employer who elects to join the retirement system, as provided in 19-13-211, on the effective date of the election if the firefighter is employed by the employer on that date.

(2) Upon becoming eligible for membership, the firefighter shall complete the forms and furnish any proof required by the board.

(3) A part-paid firefighter may elect to become a member of the retirement system by filing a membership application an irrevocable written election with the board within ~~6 months~~ 90 days of becoming a part-paid firefighter.

(4) An active member becomes an inactive member upon the occurrence of the earliest of the following:

- (a) the date on which the member ceases service with an employer;
- (b) the 31st day of an approved absence from active duty with an employer; or
- (c) the date on which the member ceases to be employed because of a reduction of the number of firefighters in the fire department as provided in 7-33-4125.

(5) (a) An inactive member with at least 5 years of membership service is an inactive vested member and retains the right to purchase service credit and to receive a retirement benefit under the provisions of this

chapter.

(b) If an inactive vested member chooses to take a lump-sum payment rather than a retirement benefit, the lump-sum payment consists of only the member's accumulated contributions and not the employer's contributions.

(6) (a) An inactive member with less than 5 years of membership service is an inactive nonvested member and is not eligible for any benefits from the retirement system.

(b) An inactive nonvested member is eligible only for a refund of the member's accumulated contributions.

(7) (a) A firefighter previously employed in a position covered under the public employees' retirement system and who is first hired into a position covered under the firefighters' unified retirement system after attaining 45 years of age may elect to remain in the public employees' retirement system.

(b) A firefighter making an irrevocable election to remain in the public employees' retirement system shall make the election in a manner prescribed by the board within ~~30~~ 90 days of being hired into the position otherwise covered under the firefighters' unified retirement system.

(8) A retired member who is receiving a service retirement benefit or early retirement benefit may return to employment covered by the retirement system for a period not to exceed 480 hours in any calendar year without returning to active service and without any effect to the retiree's retirement benefit."

Section 24. Compliance with federal laws regarding military service. (1) With respect to a member's death occurring on or after January 1, 2007, while the member is performing qualified military service covered under the Heroes Earnings Assistance and Relief Tax Act of 2008, Public Law 110-245, and to the extent required by section 401(a)(37) of the Internal Revenue Code, 26 U.S.C. 401(a)(37), the designated beneficiaries are entitled to benefits that the system would have provided if the member's death had occurred while in covered employment.

(2) With respect to a member's disability occurring on or after January 1, 2009, while the member is performing qualified military service covered under the Heroes Earnings Assistance and Relief Tax Act of 2008, Public Law 110-245, and to the extent required by section 401(a)(37) of the Internal Revenue Code, 26 U.S.C. 401(a)(37), the member is entitled to any benefits that the system would have provided had the member become disabled while in covered employment.

Section 25. Codification instruction. [Sections 9, 10, and 24] are intended to be codified as an integral part of Title 19, chapter 2, part 10, and the provisions of Title 19, chapter 2, part 10, apply to [sections 9, 10, and 24].

Section 26. Effective date. [This act] is effective July 1, 2009.

Section 27. Retroactive applicability. The following sections apply retroactively, within the meaning of 1-2-109, to the following provisions or events:

(1) The definition of "distributee" in 19-2-303 applies retroactively to January 1, 2007, as provided in that section.

(2) The definition of "eligible retirement plan" in 19-2-303 applies retroactively to January 1, 2002, and January 1, 2008, as provided in that section.

(3) The definition of "eligible rollover distribution" in 19-2-303 applies retroactively to January 1, 2002, as provided in that section.

(4) Section 19-2-602(4) applies retroactively to January 1, 2008, for the determination of an eligible retirement plan as provided in that subsection.

(5) Section 19-2-1001(4)(a) applies retroactively to January 1, 1998, for a permissive service credit contribution as provided in that subsection.

(6) Section 19-2-1001(5)(d) applies retroactively to January 1, 1998, for permissive service credit contributions as provided in that subsection.

(7) Section 19-2-1001(7) applies retroactively to January 1, 1998, for the definition of "nonqualified service credit" as provided in that subsection.

(8) Section 19-2-1001(9) applies retroactively to December 31, 2001, for trustee-to-trustee transfers as provided in that subsection.

(9) Section 19-2-1001(10) applies retroactively to years before January 1, 1998, for a determination as to who is an eligible plan member.

(10) Section 19-2-1001(12) applies retroactively to the definition of "salary" as provided in that subsection.

(11) Section 19-2-1001(13) applies retroactively to January 1, 2001, January 1, 2008, and January 1,

2009, for the limits on a defined benefit plan member's annual benefit as provided in that subsection.

(12) Section 19-3-2123(1) applies retroactively to January 1, 2008, for a determination as to what constitutes an eligible retirement plan as provided in that subsection.

(13) Section 19-3-2126(4)(b) applies retroactively to January 1, 2008, for a determination as to what constitutes an eligible retirement plan as provided in that subsection.

(14) [Section 24] applies retroactively to retirement system member deaths on and after January 1, 2007, and to retirement system member disabilities on and after January 1, 2009.

- END -

I hereby certify that the within bill,
HB 0170, originated in the House.

Chief Clerk of the House

Speaker of the House

Signed this _____ day
of _____, 2009.

President of the Senate

Signed this _____ day
of _____, 2009.

HOUSE BILL NO. 170
INTRODUCED BY M. MENAHAN
BY REQUEST OF THE PUBLIC EMPLOYEES' RETIREMENT BOARD

AN ACT GENERALLY REVISING STATUTES GOVERNING VARIOUS STATE RETIREMENT SYSTEMS IN ORDER TO ENSURE THAT THOSE SYSTEMS CONSTITUTE QUALIFIED RETIREMENT PLANS UNDER THE INTERNAL REVENUE CODE; AMENDING SECTIONS 5-2-304, 19-2-303, 19-2-602, 19-2-902, 19-2-907, 19-2-1001, 19-2-1002, 19-2-1005, 19-3-315, 19-3-412, 19-3-1501, 19-3-2123, 19-3-2126, 19-5-701, 19-7-1001, 19-8-801, 19-9-301, 19-9-1206, 19-9-1208, 19-13-210, AND 19-13-301, MCA; AND PROVIDING AN EFFECTIVE DATE AND RETROACTIVE APPLICABILITY DATES.